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June 1, 2021

Via ECF

Honorable Alison J. Nathan
United States District Court
Southern District of New York
40 Foley Square, Courtroom 906
New York, New York 10007

Re: *E.W. on behalf of herself and her child, Z.K. v. N.Y.C. Dep't of Educ., et al*, 21-CV-1140

Dear Judge Nathan:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel, James E. Johnson, counsel for Defendants in the above-referenced action. I write jointly with Plaintiffs' counsel to respectfully request an adjournment of the initial pretrial conference in this matter, which is currently scheduled for June 11, 2021.

This matter involves claims under Section 504 of the Rehabilitation Act, 29 U.S.C. § 701, the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq* (the "IDEA"), and 42 U.S.C. § 1983. Plaintiffs' claims involve, *inter alia*, the creation of compensatory banks for special education related services, as ordered through a series of administrative decisions in two due process proceedings, and payments for these related services to be made pursuant to those orders, under the IDEA's pendency provision, and from the compensatory banks as appropriate. Plaintiffs seek *inter alia* equitable relief based on alleged violations of Z.K.'s rights, in addition to attorneys' fees, costs, and expenses related to the underlying administrative proceedings and this federal action.

The parties' reason for seeking this adjournment is two-fold: First, Defendants requested a further extension of their time to respond to the Complaint in order to access and review payment and accounting records from the New York City Department of Education, in the hopes of resolving the implementation claims in this action. (ECF Dkt. No. 22.) The Court granted that request, and Defendants' response to the Complaint is now due on June 24, 2021 (ECF Dkt. No. 23)—after the presently scheduled initial pretrial conference. Second, I recently received the billing and account records, and I am currently in the process of reviewing and analyzing said

records so that the parties can confer on this issue. The parties plan to meet and confer in the near future in order to discuss how to resolve the implementation claims. Thereafter, the parties will, hopefully, be able to resolve the claims for attorneys' fees.

The parties therefore respectfully request an adjournment of the initial pretrial conference to a date after June 24, 2021. This will allow Defendants to respond to the Complaint prior to the conference and permit the parties to meet and confer on how to resolve the claims. The parties can be available for a conference on July 9, 16, or 23.

Should the Court grant this request, the parties respectfully request a corresponding extension of their time to submit their proposed case management plan to the Court until 7 days before the new conference date. The parties' proposed case management plan is currently due on June 4, 2021.

This is the parties' first request for an adjournment of the initial pretrial conference. The Court previously adjourned the conference following Defendants' first request for an extension of their time to respond to the Complaint.


Thank you for your consideration of this request.

Respectfully submitted,

/s/
Rosemary C. Yogiaveetil
Assistant Corporation Counsel

cc: **Via ECF**
Erin Michelle O'Connor
Of Counsel
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The initial pretrial conference scheduled for June 11, 2021, is adjourned to July 23, 2021, at 3:15 p.m. The parties should file their joint letter and proposed case management plan at least seven days before the new conference date.
SO ORDERED.


SO ORDERED. 6/3/2021
ALISON J. NATHAN, U.S.D.J.